

**BEFORE THE
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554**

In the Matter of)	
)	
Emergency Broadband Benefit Program)	WC Docket No. 20-445
)	

**PETITION FOR LIMITED WAIVER AND
REQUEST FOR EXPEDITED TREATMENT**

Section 1.3 of the Commission’s rules allows for the FCC to waive any provision of the rules upon petition if good cause is shown.¹ WideOpenWest Finance, LLC (“WOW”)² respectfully requests on an expedited basis that the Commission: 1) waive the requirement that WOW claim Emergency Broadband Benefit (“EBB”) reimbursement within fifteen (15) days of the first snapshot date that a subscriber is enrolled in EBB; and 2) for each newly-enrolled EBB subscriber, grant WOW an additional thirty (30) days to submit the initial reimbursement claim, to the 15th day of the month following the second snapshot date for the subscriber. The requested waiver will serve the public interest as explained herein and will not interfere with the ability of the Universal Service Administration Corporation (“USAC”) to track the EBB program’s remaining funding. Furthermore, to date, the FCC has granted two waivers for obstacles factually similar to the issues WOW faces.³

¹ 47 C.F.R. §1.3

² WideOpenWest Finance, LLC filed on behalf of its various operating subsidiaries which operate across 10 different states.

³ See, e.g., WC Docket No. 20-445, Emergency Broadband Benefit Program, DA 21-455, Order (rel. April 20, 2021) (“Verizon Waiver Order”); WC Docket No. 20- 445, Emergency Broadband Benefit Program, DA 21-557, Order (rel. May 11, 2021) (“Altice Waiver Order”). Other similar waivers are pending. See generally WC Docket No. 20-445 (waivers filed by Cox Communications, Inc., United States Cellular Corporation, Cellular South Licenses, LLC, and Cable One, Inc.).

In the EBB Program Order ⁴, the FCC established that the disbursement of EBB funding would utilize the same snapshot date system as is used in the Lifeline program.⁵ Reimbursement claims are based on the number of EBB program subscribers enrolled with a provider as of the first of each month.⁶ Providers then have 15 days (or the following business day in the event the 15th day of the month falls on a weekend or holiday) in which to submit to USAC the reimbursement claims for service support captured on the snapshot report. The processing of reimbursement claims is restricted to that period, and reimbursement claims submitted after that deadline will not be processed.⁷

Due to the nature of the program, the EBB reimbursement process will be significantly more difficult for providers to administer compared to the Lifeline program, especially for providers like WOW which offer the EBB on multiple services, including services wherein the total price is less than \$50.00. Unlike the Lifeline program in which each subscriber receives the same \$9.25 discount per month, EBB providers must calculate the amounts submitted for reimbursement on a subscriber-by-subscriber basis.⁸ Furthermore, providers under the Lifeline program have one year from the snapshot date to submit a reimbursement claim for a Lifeline subscriber, but providers under the EBB program are only given 15 days.⁹

For providers who offer the EBB discount on only one or two service offerings, or for providers in which each of the eligible service offerings are all higher than the \$50 threshold, this 15-day period may provide sufficient time to complete this review and certification process. However, WOW elected to provide its subscribers with as many choices as possible and

⁴ WC Docket No. 20-445, *Emergency Broadband Benefit Program*, Report and Order (rel. Feb. 26, 2021) (“EBB Program Order”).

⁵ EBB Program Order, ¶ 98.

⁶ *Id.*

⁷ *Id.*, ¶ 99.

⁸ 47 CFR § 54.403(a)(1).

⁹ <https://www.usac.org/lifeline/reimbursement/>

submitted 27 different service offerings throughout its 10-state footprint. In addition, more than half of these service offerings are not eligible for the full \$50 reimbursement. They include different speed tiers, lifeline discounts, leased vs owned modems, and promotional discounts. This results in 16 different possible price points for reimbursement for each customer that receives EBB from WOW. As a result, WOW will be required to individually review each and every EBB subscriber across its large footprint to ensure the proper reimbursement amount is being claimed. This hardship is factually similar to the difficulty faced by Verizon in which the FCC concluded, “we are convinced that the 15-day deadline for the first reimbursement claim for a newly enrolled EBB subscriber poses a substantial hardship to Verizon in its EBB Program participation and amounts to a special circumstances that warrants a deviation from the general rule.”¹⁰ WOW faces the same hardship of the prices varying from service-to-service and also among subscribers to the same service, including services where the reimbursement will be less than \$50.00 once equipment and discounts are taken into effect. The combination of a more difficult claims reimbursement process coupled with a shorter time frame in which to claim reimbursement for subscribers makes it nearly impossible for WOW to ensure the proper reimbursement amount is being claimed within the short mandated time frame.

The Commission has the authority to waive its rules when: 1) special circumstances warrant a deviation from the general rule; and 2) such deviation will serve the public interest.¹¹ The hardship WOW faces in applying the proper amount of reimbursement in compliance with the EBB program rules across 27 different service offerings is consistent with a special circumstance that warrants a deviation from the general rule. Ever since the announcement of

¹⁰ Verizon Waiver Order, ¶ 8.

¹¹ Northeast Cellular Telephone Co. v. FCC, 897 F.2d 1164, 1166 (D.C. Cir. 1990).

the EBB program, WOW has been working to update its internal systems to accommodate the rules surrounding the EBB reimbursement process. Despite these efforts, the sheer number of service offerings available to subscribers under the program, and the variability on reimbursement amounts makes it impossible to accurately confirm this information within the 15-day window after the monthly snapshot for new subscribers. The additional requested time will ensure that WOW can accurately submit reimbursement claims for its participating customers.

By granting this waiver, USAC's ability to track disbursement requests and accurately determine the conclusion of the program due to a depletion in funding will not be materially affected. This was the FCC's primary purpose in implementing the 15-day certification period.¹² The requested waiver is limited to only for newly enrolled customers on an ongoing basis. Since USAC can still determine the number of EBB subscribers enrolled via the National Lifeline Accountability Database, the primary concern for implementing the 15-day rule is alleviated. USAC will know the number of subscribers; the issue will just be whether the reimbursement is for the full \$50.00 or something less. The depletion of the funding can still be tracked.

Grant of this requested waiver is also in the best interest of the public. In participating in the program, WOW wanted to ensure that as many service offerings as possible were available to its customers across the country to meet the individual needs. Granting this waiver will ensure that providers who took the extra step to ensure equal access and customer choice can submit reimbursement claims in compliance with the program rules. This waiver is consistent with the

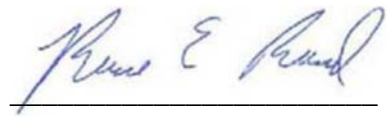
¹² EBB Program Order, ¶ 99.

EBB Program Order's stated intention of having providers offer the EBB discount on multiple service offerings, despite the fact that only one eligible service offering was required.¹³

By granting this Petition on an expedited basis the Commission can ensure that WOW is able to obtain full reimbursement under the program as Congress and the Commission intended. For the foregoing reasons, WOW requests the expedited grant of the waiver relief requested herein.

Respectfully submitted,

WideOpenWest Finance, LLC

A handwritten signature in blue ink, appearing to read "Bruce E. Beard", is written over a horizontal line.

Bruce Beard
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Its Attorney

May 27, 2021

¹³ EBB Program Order, ¶ 37.

VERIFICATION

I, Kim Crooks, state that I am Vice President, Regulatory Affairs, for WideOpenWest Finance, LLC; that I am authorized to make this Verification on behalf of WideOpenWest Finance, LLC; that I am familiar with the various WOW subsidiary operating companies that are participating in the Emergency Broadband Program as providers, that I have read the foregoing Petition for Waiver and Request for Expedited Treatment and that the statements of fact are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'Kim Crooks', written over a horizontal line.

Kim Crooks
Vice President, Regulatory Affairs
WideOpenWest Finance, LLC

May 27, 2021